

4/16/2019 11:32 am

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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JAMES REYES,

For Online Publication Only

Plaintiff,

-against-

ORDER
18-CV-7473(JMA)(ARL)

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY
SHERIFF'S DEPARTMENT, VINCENT DEMARCO,
MATT GARRETT, JOHN DOES # 1-4 sued in their
official and individual capacities,

Defendants.

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AZRACK, United States District Judge:

On December 27, 2018, incarcerated *pro se* plaintiff James Reyes ("plaintiff") commenced this action against the County of Suffolk, the Suffolk County Sheriff's Department, Sheriff Vincent DeMarco, Corrections Officer Matt Garrett, and four unknown individuals alleged to be corrections officers at the Suffolk County Corrections Facility's Yaphank location (collectively, "defendants") pursuant to 42 U.S.C. § 1983 alleging a deprivation of his constitutional rights. Accompanying the complaint is an application to proceed *in forma pauperis*. However, plaintiff did not include the required Prisoner Litigation Authorization form ("PLRA"). Accordingly, by Notice of Deficiency dated January 4, 2019, the Court instructed plaintiff to complete and return the enclosed PLRA within fourteen days in order for his case to proceed. (See ECF No. 6.) On January 11, 2019, plaintiff filed the PLRA together with another application to proceed *in forma pauperis*. (See ECF Nos. 8, 10.)

Upon review of the declarations accompanying plaintiff's applications to proceed *in forma pauperis*, the Court finds that plaintiff's financial status qualifies him to commence this action without prepayment of the filing fee. See 28 U.S.C. § 1915(a)(1). Accordingly, plaintiff's applications to proceed *in forma pauperis* (ECF Nos. 3, 8) are GRANTED.

IT IS HEREBY ORDERED that plaintiff is granted leave to file the complaint without prepayment of the filing fee or security; and

IT IS FURTHER ORDERED that the Clerk of Court must forward to the United States Marshal Service for the Eastern District of New York (“USMS”) a copy of plaintiff’s summonses, complaint and this Order for service upon the named defendants without prepayment of fees.

However, the USMS will not be able to serve the unnamed defendants without more information. Pursuant to Valentin v. Dinkins, 121 F.3d 72, 75-76 (2d Cir. 1997) (*per curiam*), the Court requests that the Suffolk County Attorney ascertain the full names and service addresses of the unnamed defendants. Accordingly, the Clerk of the Court shall serve a copy of the complaint together with this order on the Suffolk County Attorney and the Suffolk County Attorney’s Office is requested to attempt to ascertain the full names of the unidentified individuals described in the complaint and to provide their names and address(es) where each such defendant can be served to the Court and to plaintiff within thirty (30) days of the date that this Order is served upon it.

The Suffolk County Attorney need not undertake to defend or indemnify these individuals at this juncture. This Order merely provides a means by which the plaintiff may name and properly serve the defendants as instructed by the Second Circuit in Valentin. Once the information is provided to the Court by the Suffolk County Attorney’s Office, plaintiff’s complaint shall be deemed amended to reflect the full names of the unnamed defendants, summonses shall be issued as to those defendants, and the USMS shall serve those defendants.

IT IS FURTHER ORDERED that the Clerk of Court mail a copy of this Order to the plaintiff at his last known address.

SO ORDERED.

Dated: April 16, 2019
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge